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10 UNITED STATES DISTRICT COURT
11 WESTERN DISTRICT OF WASHINGTON
12 AT TACOMA

13 FLOYD WILLIAM MARR,

14 Plaintiff,

15 v.

16 JUDGES WILLIAM BROWN AND BRIAN
17 TOLLEFSON,

18 Defendants.

Case No. C08-5645RJB/JKA

REPORT AND
RECOMMENDATION

NOTED FOR:

November 28, 2008

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20 This petition for writ of mandamus action has been referred to the undersigned Magistrate Judge
21 pursuant to Title 28 U.S.C. §§ 636(b)(1)(A) and 636(b)(1)(B) and Local Magistrate Judges' Rules MJR 1, MJR
22 3, and MJR 4. The court has granted plaintiff's motion to proceed *in forma pauperis*.

23 Plaintiff asks the court to order two Washington State Superior Court Judges to enter a different
24 sentence in a criminal matter. Plaintiff has filed this action as a writ of mandamus.

25 The District Court has no jurisdiction to issue a mandamus under 28 U.S.C. § 1361 to compel
26 action by a state official. See 28 U.S.C. § 1361 (district court has jurisdiction over mandamus action only
27 to compel officers of the United States to perform their duties).

28 Thus, the court is without jurisdiction to entertain this action and the case should be **DISMISSED**.

1 Pursuant to 28 U.S.C. § 636(b)(1) and Rule 72(b) of the Federal Rules of Civil Procedure, the
2 parties shall have ten (10) days from service of this Report to file written objections. *See also* Fed. R. Civ.
3 P. 6. Failure to file objections will result in a waiver of those objections for purposes of appeal. Thomas v.
4 Arn, 474 U.S. 140 (1985). Accommodating the time limit imposed by Rule 72(b), the clerk is directed to
5 set the matter for consideration on **November 28, 2008**, as noted in the caption.

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7 DATED this 12 day of November, 2008.

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9 /S/ J. Kelley Arnold
10 J. Kelley Arnold
11 United States Magistrate Judge
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